MISC. APPEAL No.378 OF 2006

UNITED INDIA INSURANCE COMPANT----------(Appellant)
Versus
ZAKRUN NISHA & ORS----------(Respondents)

For the appellant : Mr. Ashok Priyadarshi, Adv.
Miss. Sushmita Mishra, Adv.
For the respondents : Mr. Surendra Kr. Singh,Sr. Adv.
Mr. Praveen Prakash, Adv.

P R E S E N T

THE HON'BLE MR. JUSTICE C.M.PRASAD

C. M. Prasad, J. With the consent of both sides this appeal was heard under Order 41 Rule-12 of the C.P.C.

This appeal by the United Indian Insurance Company Ltd. is against the award dated 24.8.2006 of the Dy. Labour Commissioner cum Workmen's Compensation Commissioner, Magadh, Division, Gaya in case No. CWC 44/03 whereby a compensation of Rs.3, 07,800.00 with interest @ 9 per cent per annum to the O. Ps. have been awarded.

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During hearing the learned counsel for the appellant raised the sole point of jurisdiction only. It was submitted that in the case before the learned Dy. Labour Commissioner cum Workmen's Compensation Commissioner, the appellant had appeared and had denied his liability in his written statement and thus the case was a contested case. The learned counsel refers to provisions under Section 20 of the Workmen's Compensation Act, 1923 (hereinafter referred as the 'Act') and points out that the State Government has been

authorized under law to appoint Commissioners for the purpose of deciding such claims. In this context, S.O. No. 464 dated 13th June, 1990 which shows appointment of the authorities competent to decide such cases of compensation is referred to. Clause-A of the notification mentions that the Presiding Officers of the Labour Courts will be ex-officio Commissioners for Workmen's Compensation to deal with all contested cases arising under the Act and the Rules framed thereunder. Clause-B to the notification mentions that the Officers other then the Presiding Officers of the Labour Courts will be ex-officio Commissioners for Workmen's Compensation to deal with uncontested cases only arising under the Act and the Rules framed thereunder. A Schedule to the notification mentions about the separate and particular territorial jurisdiction of the Presiding Officers of the Labour Court.

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The learned counsel for the appellant submitted that since the appellant had denied his liability and the case was a contested one, the learned Dy. Labour Commissioner cum Workmen's Compensation Commissioner who passed the impugned order had no jurisdiction to pass the same and he had to refer the matter to the concerned Presiding officer of the Labour Court who only was competent to hear and pass orders in the matter.

Mr. Surendera Kumar Singh, the learned counsel for the respondents does not oppose the above submission of the appellant and he fairly concedes that the case had to be decided by the Presiding Officer of the concerned Labour Court who only had the jurisdiction to decide the matter.

Thus, considering the provisions under Section 20 of the Act as well as aforesaid S.O.No.464, I find that the Dy. Labour Commissioner cum Workmen's Compensation Commissioner who passed the impugned order had no jurisdiction to pass it. Therefore, the same cannot be sustained under law. In such view of the matters, the impugned order is set aside. The concerned Dy. Labour Commissioner cum Workmen's Compensation Commissioner who passed the impugned order will refer the matter to the Presiding Officer of the concerned Labour Court for disposal accordingly who will decide the matter as expeditiously as possible.

In the result, the appeal is accordingly allowed.

(Chandra Mohan Prasad, J.)

Patna High Court,
the 25th
November,08
A.F.R.,Ravi/-

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